

JUNE BROOKS

IBLA 76-443

Decided June 30, 1976

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting oil and gas lease offer ES 15584 (Arkansas).

Affirmed.

1. Mineral Leasing Act for Acquired Lands: Generally--Oil and Gas Leases: Acquired Lands Leases--Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Future and Fractional Interest Leases

An acquired lands oil and gas lease offer for lands in which the United States owns only a fractional mineral interest is defective and is properly rejected when the applicant fails to accompany his offer with the statement required by 43 CFR 3130.4-4 showing the extent of his ownership of operating rights for the fractional mineral interest not owned by the United States.

APPEARANCES: June Brooks, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

June Brooks appeals from so much of a decision of the Eastern States Office, Bureau of Land Management, dated January 14, 1976, as rejected her simultaneously filed offer for noncompetitive acquired lands oil and gas lease ES 15584 (Arkansas). The decision noted that the United States holds only a 50 percent mineral interest in the lands. It rejected appellant's offer because it was not accompanied by a statement showing the extent of offeror's ownership of the operating rights to the fractional mineral interest not owned by the United States. 1/

1/ Appellant's offer was drawn second. The offers drawn first and third are rejected in the January 14, 1976, decision for the same defect as appellant's offer. The other offerors have not appealed.

Appellant asserts that she did not read the form and was, therefore, not aware of the need to file a statement with her offer showing the extent of her interest in the nonfederally owned mineral interest. She states in her appeal that she has no such interest.

[1] Departmental regulation 43 CFR 3130.4-4 states:

An offer for a fractional present interest noncompetitive lease must be executed on a form approved by the Director and it must be accompanied by a statement showing the extent of the offeror's ownership of the operating rights to the fractional mineral interest not owned by the United States in each tract covered by the offer to lease. Ordinarily, the issuance of a lease to one who, upon such issuance, would own less than 50 percent of the operating rights in any such tract, will not be regarded as in the public interest, and an offer leading to such results will be rejected. [Emphasis added.]

An oil and gas lease may only be issued to the first qualified applicant. 30 U.S.C. § 226(c) (1970); 43 CFR 3112.4-1. An offer unaccompanied by the statement required by the above regulation must be rejected. Appellant's subsequent statement of interest cannot cure the defect where her offer was selected in a drawing from other simultaneously filed offers. Robert L. Williams, 24 IBLA 311 (1976). The fact that appellant did not read the form and was not aware of the requirement for a statement provides no basis for relief from the provisions of the regulation. Robert L. Williams, *supra*.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joseph W. Goss

Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

